

## REMARKS

### Office Action of August 19, 2004

The Office Action of August 19, 2004 states as follows:

The reply filed on 19 May 2004 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The amendment is improper because claims 33 as submitted (which was previously present as claim 24 and then renumber by the examiner in the Office Action dated 16 December 2003) appears to be omitting the proper formatting clearly illustrating what matter has been added or deleted, e.g., in line 3, the phrase "in a supply direction" has been added 5to the claim but is not underlined.

*Office Action at 2.* Applicants respectfully traverse. In the "Supplemental Preliminary Amendment" filed by Applicants on March 28, 2003, Applicants amended claim 24 (which was correctly identified as claim 33 in the Fourth Response filed on May 17, 2004). In the amended claim 24 in the Supplemental Preliminary Response, Applicants illustrated the claim amendments using the proper format. Thus, the claim amendments submitted on May 17, 2004 were based on the claims as they stood *after* the Supplemental Preliminary Response of March 28, 2004. Using claim 24 as the basis for claim 33, Applicants submitted the further claim amendments in proper format.

Nevertheless, to advance prosecution of the present application, and to facilitate allowance of the claims, Applicants have amended claim 33 herein to reflect *both* the amendments previously made in: (1) the Supplemental Preliminary Response and (2) the Fourth Response amendments of May 17, 2004.

In addition, because the claim amendments of the Fourth Response have not yet been entered or examined, Applicants have taken this opportunity to amend the claims that were Newly Added in the Fourth Response of May 17, 2004, *i.e.*, claims 34-60. Thus, Applicants request that all of the claims be examined in their entirety as presented in this Response, not the Fourth Response of May 17, 2004. Applicants present again below all of the arguments that were presented in the Fourth Response, with minor changes to reflect the amendments to the newly added claims. Thus, the Examiner may take the following comments as responsive the Office Actions of both August 19, 2004 and December 16, 2004.

Because Applicants have previously paid for all of the Newly Added claims 34-38, *i.e.*, all claims except for Newly Added claims 59 and 60, Applicants only provide for payment herein of Newly Added independent claims 59 and 60.

#### Correction of Claim of Priority

A Claim of Priority under 35 U.S.C. 119 of July 5, 2000 was filed on July 23, 2001. The Publication No. US 2003/0008606-A1 incorrectly listed the priority date as July 5, 2001. Please make this correction in your file so the correct priority date is listed on any patent to be issued.

#### Present Status of Patent Application

Upon entry of the amendments in this response, claims 15, 30-31, and 33-60 remain pending in the present application. More specifically, claims 30-31, and 33 are amended for minor grammatical corrections; claims 34-60 are newly added; and claims 1-14, 16-29, and 32 are canceled without prejudice, waiver, or disclaimer. These amendments and additions are specifically described hereinafter. These amendments are made on the basis of the status of the claims for the filing of the supplemental preliminary amendment on March 28, 2003. It is believed that the foregoing amendments and additions add no new matter to the present application.

#### Cancellation of Claims

Claims 1-14, 16-29, and 32 are canceled herein without prejudice, waiver, or disclaimer. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of those canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public.

### Allowable Subject Matter

Applicants greatly appreciate the Examiner's statement in the previous Office Action in which the pending claims 15 and 30 have been indicated as allowed.

Additionally, Applicants appreciate the indication that claim 31 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph, set forth in the Office Action. Claim 31 has been amended, as noted below. Applicants respectfully request that claim 31 now be allowed.

### Response To Objections/Rejections

#### Claim Objections

The Office Action objected to the claims, stating:

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution.... In the Examiner's amendment entered on March 2003 in Paper No. 10, claim 24 was canceled along with claims 1-13, 17-29 and 32, upon the request of the applicant's representative, in order to put the case in condition for allowance.

In order to move forward with the prosecution of the present case, misnumbered claim 24 has been renumbered 33.

*Office Action* of December 16, 2003 at 2. Applicants have canceled claims 1-14, 16-29, and 32 without prejudice, waiver or disclaimer. The subject matter of claims 1-6 has been largely incorporated into new claims 34-40. The subject matter of claims 8-12 has been largely incorporated into new claims 41-45. The subject matter of claims 13 has been largely incorporated into new claim 48. The subject matter of claims 17-19 has been largely incorporated into new claims 49-51. The subject matter of claims 21-23 has been largely incorporated into new claims 52-54. The subject matter of claims 25-27 has been largely incorporated into new claims 55-57. The subject matter of claim 32 has been largely incorporated into new claim 58. Applicants have overcome the objections to the claim numbering, and respectfully requests that the objections be withdrawn.

#### Response To Claim Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 31 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly “being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” *Office Action* at 2. To advance prosecution of the patent application, Applicants have complied with the Examiner’s suggested correction, *i.e.*, claim 31 has been amended to insert the word --in-- after the word “are” and further --which-- before “are”. Thus, Applicants respectfully request that the rejection has been obviated and that claim 31 is now allowable.

Applicants wish to clarify that the foregoing amendment is cosmetic in nature and is not made as a condition for obtaining a patent. Applicant further submits that this amendment is non-narrowing and, pursuant to *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S. Ct. 1831 (2002), no prosecution history estoppel arises from this amendment.

#### Response To Claim Rejections Under 35 U.S.C. §102

Claim 33 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Janessen *et al.* (U.S. Patent No. 6,142,863). In particular, the Office Action of December 16, 2003 states:

Janessen et al. (hereinafter Janessen) discloses a device for processing and skinning poultry carcasses that includes all the limitations set forth in claim 33. The device comprises a conveyor and supports 6 for moving and retaining the carcass along the skinning process. It also includes skin-gripping means comprising two meshed rollers 152 (Janessen, Figure 13c), rotateable in opposite directions for pulling the skin off in a manner that is perpendicular to the supply direction. The discharge means is considered to be the natural force of gravity pulling the skin downwardly onto the floor. Regarding the added limitation of ‘actively ejecting the skin from the gripping means’ in lines 5-6, gravity is still considered to actively eject the skin from the grippers as it is removed from the poultry carcass.

*Office Action* at p. 3. Applicants respectfully traverse this rejection. *Janssen* discloses an apparatus for removing the skin from slaughtered poultry using two rotating pairs of helically ribbed skin removal rollers 148 and 150 (FIG. 13b) for removing the skin under the wings of the front half of the carcass, and rotating a pair of helically ribbed rollers 152

(FIG. 13c) for removing the skin on the breast side of the front half of the carcass. Col. 11, lines 11-20. As shown in FIGS. 13b and 13c of *Janssen*, it can clearly be seen that the rollers 148, 150, and 152 are arranged with their rotational axis parallel to the supply direction during skinning. In addition, these rollers 148, 150, and 152 are stationary with respect to the carcass.

*Janssen* neither teaches nor suggests a device for processing poultry carcasses or parts thereof having a skinner with skin gripping means as well as discharge means for ejecting the skin from the skin gripping means. *Janssen* only shows roller-shaped skin gripping rollers 148, 150, and 152 and not any discharge means for ejecting the skin from these rollers as required by claim 33. Claim 33 requires an ejection plate for ejecting skin that has been removed. This plate is illustrated by the numeral 17 in FIG. 3 of the application. Claim 33 distinguishes over *Janssen*, who does not teach or suggest discharge means actually engaging the skin. In fact, *Janssen* does not even explicitly show removal by gravitational force. In *Janssen*, the skin will be wound around the rollers and may get stuck. In that case, gravitational forces cannot remove the skin, contrary to what was asserted in the Office Action.

#### Newly Added Independent Claims

In addition, Applicants previously submitted the following argument with respect to a rejection of claim 1 based on *Janssen*:

In fact, *Janssen et al.* does not teach the movement of the skinner as defined in Claim 1 of this invention. In *Janassen et al.*, the rollers are stationary with respect to the carcass during skinning. The actual skinning in Applicant's invention results from the fact that the rotating rollers pull the skin between them thus removing the skin.

*Supplemental Preliminary Amendment* of March 28, 2003 at p. 12, lines 4-8. Claim 1 has been canceled and its subject matter largely incorporated into newly added claim 34.

Applicants wish to point out that in Applicants' claim 34, the movement of the skinner and the carcass with respect to one another during skinning with respect to as well as the orientation of the skinner with respect to the carcass during skinning prevents the skin from being damaged during removal. Otherwise, movement of the skinner would result

in the incomplete removal of the skin or damage the skin. Thus, for at least this reason, Applicant's request that claims 34 be allowed.

Claim 19 has also been canceled and its subject matter largely incorporated into newly added claim 51. Claim 51 indicates that the rollers are rotated during skinning and during the movement of the rollers along the carcass. By moving the rollers along the carcass as defined in Claim 51, the skin will be pulled off the carcass almost perpendicular to the meat. *Janssen* does not teach or suggest pulling the skin off by moving the gripping means relative to the carcass during skinning. In fact, *Janssen* shows that during skinning, the rollers provided for gripping the skin remain stationary with respect to the carcass. Relative movement between the rollers and the carcass in *Janssen* implies that it would certainly damage the skin.

*Janssen* grips the skin between rollers, but removes the skin from the carcass only by rotating the rollers. During this process *Janssen*'s rollers remain stationary to the carcass. In the first part of the skinning process with *Janssen*'s apparatus, the skin will apparently be pulled perpendicular to the meat. However, after the skin has been pulled further away from the rollers, the skin will not be pulled perpendicular to the meat, but parallel to the meat in *Janssen*'s apparatus. Moving the rollers relative to the meat in a parallel fashion will result in tearing the skin. Claim 51 of Applicant's invention teaches away from removing the skin without tearing it which is neither taught nor suggested by *Janssen*.

Claim 22 has been canceled and its subject matter largely incorporated into newly added claim 53. Claim 53 provides that the skinner is movable along the arm during the skinning process. *Janssen* neither teaches nor suggests arms adapted for moving along the carcass. In fact, *Janssen* does not teach or suggest placement of a skin gripping means on an arm. Furthermore, *Janssen* does not teach or suggest moving the skin gripping means during skinning. Consequently, Claim 53 is clearly non-obvious in light of *Janssen*.

Claim 23 has been canceled and its subject matter largely incorporated into newly added claim 54. Claim 54 provides that the longitudinal axis of the rollers is perpendicular to the plane of the carcass and the rollers are moved substantially perpendicular to the plane of symmetry of the carcass. *Janssen* does not teach or suggest movement of the rollers with respect to the carcass during skinning. Consequently, Claim 54 is clearly non-obvious in light of *Janssen*.

Claim 25 has been canceled and its subject matter largely incorporated into newly added claim 55. Claim 55 provides that the gripping means is arranged for gripping the skin by exerting a clamping force along a skin gripping line, the skin gripping line being substantially perpendicular to a line connecting a first extremity and a second extremity of the carcass. *Janssen* does not teach or suggest a skin gripping line being substantially perpendicular to a line connecting a first extremity and a second extremity of the carcass. Consequently, Claim 55 is clearly non-obvious in light of *Janssen*.

Claim 26 has been canceled and its subject matter largely incorporated into newly added claim 56. Claim 56 provides for a skin gripping means that includes two clamping rollers having longitudinal axes and being rotatable in opposite directions about their longitudinal axes, wherein the skinner has means for moving the rollers along the carcass during skinning substantially perpendicular to their longitudinal axes. *Janssen* does not teach or suggest a skin gripping means with rollers that rotate in opposite directions or moving the rollers along the carcass during skinning substantially perpendicular to their longitudinal axes. Consequently, Claim 56 is clearly non-obvious in light of *Janssen*.

Claim 27 has been canceled and its subject matter largely incorporated into newly added claim 57. Claim 57 provides that the skin gripping means is moved perpendicular to the skin gripping line. As pointed out above, *Janssen* does not teach or suggest moving the

skin gripping means during skinning. Consequently, Claim 57 is clearly non-obvious in light of *Janssen*.

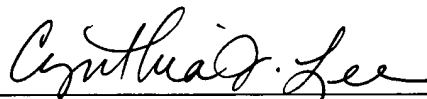
Claim 32 has also been and its subject matter largely incorporated into newly added claim 58. Claim 58 clearly indicates that the rollers move in a direction perpendicular to the longitudinal axes, which is not taught or suggested by *Janssen*. Consequently, Claim 58 is clearly non-obvious in light of *Janssen*.



### CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 15, 30, 31, 33-60 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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